

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 387 - SB 486

March 28, 2011

SUMMARY OF BILL: Authorizes any Tennessee elementary and secondary special education students who have Individualized Education Plans (IEP) to receive a special needs scholarship to attend any participating public school outside of the resident school district or private school. Eligible students with IEPs must be accepted into a participating school and their parent must request a scholarship from the state before the deadline for applications that will be established by the Department of Education (DOE). A participating school is defined as a school that has notified the DOE of its intent to accept students with special needs scholarship and comply with the requirements of this bill. The maximum scholarship amount shall be the amount equivalent to the cost of the education program that would have been provided to the student in the resident local education agency (LEA). Participating schools are not required to abide by the student's IEP as determined by the student's parent and the participating school. Participating students will continue to be counted in their resident LEA for the purposes of enrollment and receipt of Basic Education Program (BEP) state and local funding. Students who receive the scholarship are entitled to it until they return to a public school from a participating school, graduate from high school, or reach the age of 21, whichever comes first. Requires LEAs to notify eligible students of the scholarship opportunity and ensure that participating students' records are transferred in accordance with federal privacy laws. Parents of participating students may request that the LEA provide statewide assessments to students if the participating school does not offer the tests. Requires the DOE to adopt rules and regulations to effectively administer this program. Require LEAs to provide transportation to participating students to the participating school. Sets forth requirements that a participating school must comply with in order to become and continue participation in the program. Requirements include audits of the cost per pupil, filing a surety bond with the DOE in an amount equal to the aggregate amount of the scholarship amount that the school expects to receive, and background checks on its employees. Requires the Comptroller's Office of Research and Education Accountability to study this program and to report to the General Assembly.

Defines a student scholarship organization as a charitable organization that is a non-profit organization and allocates 90 percent of its annual revenue to educational scholarships or tuition grants. Tax credit scholarship and tax credit tuition grant means any scholarship or grant awarded by a student scholarship organization. Student scholarship organizations are required to maintain separate accounts for scholarship and operational funds. Requires these organizations to report to the Department of Revenue (DOR) the total number and dollar value of contributions and tax credits approved, a list of donors, and a copy of the audit required. Requires parents of students who receive a tax credit scholarship or tuition grant to provide written notification that these funds have been deposited into the account of the participating school. Requires DOR to maintain a current list of student scholarship organizations on its website.

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Authorizes tax payers to receive a franchise and excise tax credit not to exceed the actual amount donated or 75 percent of the taxpayer's franchise and excise tax credit liability for the year in which the donation was made, whichever is less. Tax credits shall not be given if the donation was designated for a specific student. The taxpayer is authorized to claim any unused student scholarship organization tax credit against the taxpayer's franchise and excise tax liability in the five years following the donation. The aggregate amount of student scholarship tax credits shall not exceed \$50,000,000 in any tax year. Before making any donation taxpayers shall notify the DOR of the amount to be donated and receive a student scholarship organization tax credit pre-approval letter from the Commissioner of DOR. A letter of confirmation issued by the student scholarship organization shall be attached to the taxpayer's tax return. Authorizes the Commissioner of DOE and DOR to promulgate rules and regulations. The scholarship program will begin in school year FY12-13; however, donations can be made beginning on January 1, 2012.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue - \$50,000,000/FY12-13 and Each Subsequent Year

Increase Local Expenditures - \$50,940,800/Beginning FY12-13 and Each Subsequent Year*

Assumptions:

- According to the Comptroller, 110,232 students will be eligible to receive scholarships. Based on the Comptroller's research into other states, the number of students who will participate will be five percent (5,512).
- Students who receive scholarships will not be eligible for federal special education IDEA funding that is currently being received by the LEAs to off-set the cost of their educational needs. According to the Comptroller, IDEA funding is an average of \$1,741.80 per student.
- The cost to educate each special education student varies widely and is dependent upon the student's IEP.
- LEAs will have to increase expenditures to make up some portion of their current BEP match and the full loss of IDEA funding. The increase in local expenditures to make up IDEA funding will be \$9,600,802 ($\$1,741.80 \times 5,512$).
- The Department of Education assumes that a good average estimate of per student cost is \$15,000 in state and local dollars. It is estimated that LEAs will be able to make up 50 percent of the total shift in state and local funding (\$7,500) and will increase expenditures to fund the other half. The increase in local expenditures to make up the shift in state and local funding will be \$41,340,000 ($\$7,500 \times 5,512$).
- There will be an increase in local expenditures to transport students to participating schools; however this increase is unable to be reasonably quantified and will be based on the number of students who participate in any LEA, the location of the participating school, the cost of diesel fuel, and driver salary and benefits.

- The increase in local expenditures will be \$50,940,802 (\$41,340,000 + \$9,600,802).
- The Department of Revenue estimates that the full tax credit will be awarded beginning in FY12-13 and each subsequent fiscal year. The decrease in state revenue will be \$50,000,000/FY12-13 and each subsequent fiscal year.
- Any increase in state or local revenue to notify students of this program, post information on the state's website, mail pre-approval letters to tax credit donors, and promulgate rules and regulations will be not significant.

**Article II, Section 24 of the Tennessee Constitution provides that: No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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